Remarks

Claims 1-40 are currently pending in the Application.

Allowable Claims

Applicant acknowledges with gratitude the Examiner's indication of allowability as to Claims 1-11, 16-25, 29-37 and 40.

Telephone conference

Applicant thanks the Examiner for the many courtesies extended during the telephone conference held with Attorney Alex Krayner on October 14, 2005. During the telephone conference it was agreed that the cited reference Chiang (U.S. Patent No. 6,515,635B1) does not in fact disclose an "a diameter which is less than one half wavelength" (emphasis added) as recited in Claim 15 and similarly recited in Claim 28.

35 U.S.C. §102(e) Rejection

Claims 15 and 28 stand rejected under 35 U.S.C. §102(e) as being anticipated by Chiang (U.S. Patent No. 6,515,635). Applicant respectfully disagrees.

The Examiner is reminded that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP 2131 quoting *Verdegaal Bros. V. Union Oil Co, of California,* 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The Examiner is also reminded that "[the] identical invention must be shown in as complete detail as is contained in the ... claim." MPEP 2131 quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Applicant submits that the Examiner has not shown that Chiang teaches each and every element as set forth in the rejected claims. In particular:

Claim 15

Applicant submits that the Examiner has not shown that Chiang discloses, suggests or teaches, *inter alia*, at least the following features recited by Claim 15 of the present application:

> "said common imaginary circle having a diameter which is **less than one half wavelength** of frequencies " (emphasis added)

According to Chiang and as conceded by the Examiner on page 2, last paragraph of the Office Action, the distance between the junction "630" and diodes "615" is exactly a quarter of a wave. See Figure 7 of Chiang. Because Chiang teaches the radius distance of exactly a quarter of a wave, Chiang does not teach, disclose or suggest "a diameter which is less than one half wavelength" as recited in Claim 15.

Hence, Claim 15 is patentable over Chiang and should be allowed by the Examiner.

Claim 28

Applicant submits that, at least for the reasons stated above, Chiang does not teach, disclose or suggest "the circular pattern having a diameter which is **less than a half wavelength** of frequencies" (emphasis added) as recited in Claim 28. Hence, Claim 28 is patentable over Chiang and should be allowed by the Examiner.

35 U.S.C. §103(a) rejection in view of Chiang and further in view of Sievenpiper

Claims 26-27 stand rejected under 35 U.S.C. §103(a) as being obvious in view of Chiang and further in view of Sievenpiper (U.S. Patent No. 6,366,254).

Applicant submits that Claims 26-27, at least based on their dependency on Claim 15, are believed to be patentable over Chiang and Sievenpiper, because there is no prima facie 35 USC 103(a) case based on Chiang, as shown above, and because the Examiner has not

shown to the Applicant where Sievenpiper discloses, teaches or suggests the features not found in Chiang.

35 U.S.C. §103(a) rejection in view of Chiang and further in view of Ito

Claims 38-39 stand rejected under 35 U.S.C. §103(a) as being obvious in view of Chiang and further in view of Ito (U.S. Patent No. 6,337,668).

Applicant submits that the Examiner has **not** established a *prima facie* case of obviousness for the claims rejected under 35 U.S.C. §103(a). Applicant notes:

> "To establish a *prima facie* case of obviousness, three basic criteria must be met. **First, there must be some suggestion or motivation**, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. **Second, there must be a reasonable expectation of success.** Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure" (emphases added) *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicant submits that a *prima facie* case of obviousness has not been established because Examiner's conclusion as to the motivation to combine is not supported by the disclosures of the cited references and there is no reasonable expectation of success as shown below.

The Examiner alleges that it "would have been obvious to one skilled in the art at the time the invention was made to have substituted the switch distance disclosed by Chiang et al. with the switch distance of less than one quarter wavelength disclosed by Ito et al." See page 5, lines 13-15 of the Office Action. According to the Examiner, such "a modification would have been obvious to reduce the size of the antenna array ... thus suggesting the obviousness of the modification." See page 5, lines 16-18 of the Office Action. Applicant respectfully traverses Examiner's allegations.

Applicant respectfully submits that the only reason Ito is able to provide a distance of less than the conventional length of 1/4 wavelength is by providing capacitance "105" between an antenna"103" and a conductive plate "101." See column 3, lines 59-62 and Figure 3 of Ito.

Therefore, in order to substitute the switch distance disclosed by Chiang with the switch distance of less than one quarter wavelength disclosed by Ito, one skilled in the art would also have to somehow provide the capacitance "105 and the conductive plate "101" to the device disclosed by Chiang. Where is the "suggestion or motivation" for one skilled in the art to provide the capacitance "105" and the conductive plate "101" to the device disclosed by Chiang? If anything, Chiang teaches against such combination.

Applicant submits that, by adding the conductive plate "101," one skilled in the art would short out transmission lines "610 and 415" disclosed in Chiang and make Chiang's device inoperable. According to MPEP §2143.01, if "proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)." Applicant submits that making Chiang's device inoperable would definitely render Chiang's invention unsatisfactory for its intended purpose.

Further, according to MPEP §2143.02, the "prior art can be modified or combined to reject claims as *prima facie* obvious as long as there is a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986)." Applicant submits that there is not suggestion by the Examiner or in the cited references that there is a reasonable expectation of success in adding the capacitance "105" and the conductive plate "101" to the Chiang reference. On the contrary, as stated above, the addition of the conductive plate "101," would short out transmission lines "610 and 415" disclosed in Chiang and make Chiang's device inoperable.

Applicant submits that the Examiner has failed to establish a *prima facie* case of obviousness for the claims rejected under 35 U.S.C. §103(a). Therefore, Applicant respectfully requests that the rejection be withdrawn.

The Examiner is encouraged to contact the undersigned to discuss any other issues requiring resolution.

* * *

Conclusion

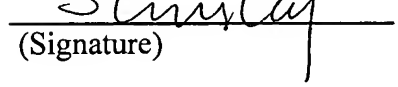
In view of the above, reconsideration and allowance of all the claims are respectfully solicited.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136 (a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 12-0415.

I hereby certify that this correspondence is being deposited with the United States Post Office with sufficient postage as first class mail in an envelope addressed to Mail Stop Amendment Commissioner for Patents POB 1450, Alexandria, VA 22313-1450 on

November 8, 2005
(Date of Deposit)

Shannon Tinsley
(Name of Person Signing)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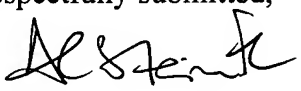
November 8, 2005
(Date)

Respectfully submitted,



Alessandro Steinfl
Attorney for Applicants
Reg. No. 56,448
LADAS & PARRY
5670 Wilshire Boulevard, Suite 2100
Los Angeles, California 90036
(323) 934-2300

Encls: Postcard